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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/351,597	07/12/1999	JOHN THOMAS BRASSIL	07007-04	9969

7590 01/29/2002

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EXAMINER

ETIENNE, ARIO

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 01/29/2002

3

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.  
09/351,597

Applicant(s)  
BRASSIL

Examiner  
Ario Etienne

Art Unit  
2155



– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Jul 12, 1999

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-3 is/are pending in the applica

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from considera

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-3 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirem

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2

20) ☐ Other:

Art Unit: 2155

***DETAILED ACTION***

1. This is a first office action in response to application filed on July 12, 1999 in which claims 1-3 are presented for examination and are, therefore, pending in the application.

***Drawings***

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

***Specification***

4. The disclosure is objected to because of the following informalities:
  - a) On page 2, line 14, the acronym "DBA" needs to be spelled out since it is its first occurrence.
  - b) The "Brief Description of the Drawings" section of the specification is incomplete since it only provide a statement for figure 1. A sttatemt briefly describing the remains figures 2-4 of the drawings is respectfully requested.

Appropriate correction is required.

Art Unit: 2155

***Claim Rejections - 35 U.S.C. § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1:

lines 2 and 4, the phrase "one or more of said users" lacks proper and clear antecedent basis;

lines 3 and 5, "said requesting user" lack clear antecedent basis;

line 6, "said response" has insufficient antecedent basis;

line 7, "said reservation system" lacks antecedent basis;

line 8, "said state-based request" has insufficient antecedent basis.

In claim 2:

line 1, "said state-based request" lacks sufficient antecedent basis;

line 2, the phrase "said request for bandwidth for user *i*" lacks clear antecedent basis;

Art Unit: 2155

line 2, it is not entirely clear whether the expression “q t/d” stands for q to the t power over d or q times t over d (delta). Please, clarify.

In claim 3:

line 4, the phrase “the greater value” is vague;

line 4, “said user’s queue” has no antecedent basis;

the passage in lines 4-5 is vague and indefinite for containing several words/phrases lacking antecedent basis and for failing to clear set two or more comparative values as suggested by the phrase “as between”. It is also not clear as to what the correlation between the expressions t, lamda to the power of t and q(subi) time t/d is.

***Claim Rejections - 35 U.S.C. § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CAR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

Art Unit: 2155

made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA).

AAPA discloses a dynamic bandwidth allocation method as recited in the preamble of the claim (Jepson-type claim) but fails to clearly disclose the step of scaling a state-based request by a factor of  $1/d$ . However, as it is clear to one skilled in the art that each user's request may be delayed by a reservation latency of  $d$  (see spec., page 4, last two lines), one of ordinary skill in the art would have found it obvious to scale the "state-based request" by a factor of 1 over the reservation delay ( $d$ ) because this would obviously result in reducing or, in some cases, eliminate the overall latency of the dynamic bandwidth allocation system/method and thereby improving the response time to users' requests.

### *Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ario Etienne whose telephone number is (703) 308-7562. The examiner can normally be reached on Mondays-Thursdays from 7:30AM to 6:00PM.

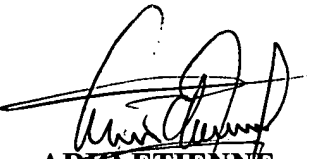
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh, can be reached on (703) 305-9648 or at e-mail address [ayza.sheikh@uspto.gov](mailto:ayza.sheikh@uspto.gov).

The fax phone number for this Group is (703) 746-7239.

Art Unit: 2155

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

*Ario Etienne*  
*January 28, 2002*



**ARIO ETIENNE**  
**PATENT EXAMINER**